

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RALPH SCHWARZ,

Plaintiff,

V.

U.S. FOODSERVICE, INC.,

Defendant.

CIVIL ACTION NO. 05-10331-EFH

JOINT MOTION TO EXTEND DISCOVERY AND RELATED DEADLINES

Defendant U.S. Foodservice, Inc. (“U.S. Foodservice”) and Plaintiff Ralph Schwarz (“Schwarz”) respectfully request that the Court extend by forty-five (45) days the discovery and dispositive motion deadlines in this matter. In support of this motion, the parties state:

1. Pursuant to the parties Joint Discovery Plan, approved by the Court on June 21, 2005, fact discovery is scheduled to close on December 15, 2005 and expert discovery is scheduled to close on January 15, 2006.
2. Due to scheduling issues and despite the parties' best efforts to complete discovery expeditiously, it will not be possible to complete discovery by the current deadlines.
3. Counsel for the parties have agreed to complete all fact and expert discovery by February 28, 2006. The parties request the Court to extend such deadlines accordingly.
4. In accordance with the extended discovery deadlines, the parties also request the Court to extend the deadlines for filing dispositive motions as follows: (1) all motions for summary judgment to be filed on or before March 28, 2006; (2) oppositions to motions for

summary judgment to be filed on or before April 28, 2006; and (3) any reply briefs to be filed by May 15, 2006.

5. This motion is made within the time originally prescribed in accordance with Fed. R. Civ. P. 6, in good faith, and with no intent to delay these proceedings. The extension will not affect the timing of any other deadline and will not delay any hearing, conference or trial in this matter.

6. This is the parties' first request for extension of these deadlines. Neither party will be prejudiced if the Court grants this motion. If the Court denies it, however, each party will be deprived of the opportunity to obtain discovery relevant to this case.

WHEREFORE, the parties respectfully request that the Court grant this motion and order that the deadlines for completing discovery and for filing and responding to dispositive motions be extended by forty-five (45) days.

Respectfully submitted,

THE PLAINTIFF,
RALPH SCHWARZ
By his attorney,

THE DEFENDANT,
U.S. FOODSERVICE, INC.
By its attorneys,

/s/ Frank P. Spinella, Jr.
Frank P. Spinella, Jr. (BBO# 566536)
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/s/ John P. McLafferty
John P. McLafferty (BBO# 639179)
Joy E. Barni (BBO #653711)
DAY, BERRY & HOWARD LLP
One International Place
Boston, MA 02110
(617) 345-4600

Dated: December 8, 2005

CERTIFICATE OF SERVICE

I, John P. McLafferty, do hereby certify that on this 8th day of December, 2005, I electronically filed Joint Motion to Extend Discovery and Related Deadlines using the CM/ECF system which will send notification of such filing(s) to the following: Frank P. Spinella, Jr., Hall, Morse, Anderson, Miller & Spinella, P.C., 14 Centre Street, P.O. Box 2289, Concord, NH 03302-2289.

/s/ John P. McLafferty
John P. McLafferty